HOW TO APPEAL YOUR CIVIL CASE

FILING YOUR NOTICE OF APPEAL.

Appeal From a District Court. The Notice of Appeal must be filed in the district court within 30 days from the entry of the order or judgment of the district court which you are appealing. If the U.S. government is a party, the Notice of Appeal must be filed within 60 days of entry of the order or judgment you are appealing. If a timely Notice of Appeal has been filed by one party in a case, any other party may file a Notice of Appeal within 14 days after the first Notice of Appeal is filed, or within the time previously stated, whichever is later.

Appeal From the Tax Court or Petition for Review of an Order of a U.S. Government Agency. If you are appealing a decision of the U.S. Tax Court or seeking review of, or to enforce an order of, a U.S. agency, follow the applicable statute governing the time for filing the Notice of Appeal or Petition for Review.

NOTE THAT ALL PERSONS AND ENTITIES THAT WISH TO BE APPELLANTS SHOULD BE NAMED IN THE NOTICE OF APPEAL.

PAYING YOUR DOCKET FEE.

Appeal From a District Court. Pay the $250 docket fee, plus $5.00 processing fee, to the Clerk of the district court when you file the Notice of Appeal.

Appeal From the Tax Court or Petition for Review of an Order of a U.S. Government Agency. Pay the $100 docket fee in the U.S. Tax Court, if you are appealing from an order of that court. If you are seeking review of an order of any other U.S. agency, the docket fee of $100 is paid in the Court of Appeals.

If you do not pay the fee within ten days of filing the Notice of Appeal, your case may be dismissed by the Court of Appeals. If the appellant cannot afford to pay the fee, you must file a motion for "*in forma pauperis*" status (as a poor person) in the district court (or in this Court in an agency appeal). If this is denied, the motion may be filed in the Court of Appeals. The motion to this Court must be on the Court's motion form (see **Motions**, below), and have a proper financial affidavit attached. *If you intend to move for in forma pauperis status, you must do so within ten days of filing the Notice of Appeal or within ten days notify the Court that you will make a motion for in forma pauperis status within 30 days of filing the Notice of Appeal.*

THESE INSTRUCTIONS ARE ONLY A SUMMARY OF THE COURT OF APPEALS PROCEDURES. PLEASE REFER TO THE FEDERAL RULES OF APPELLATE PROCEDURE, AS SUPPLEMENTED BY THE LOCAL RULES OF THIS COURT, FOR ANSWERS TO SPECIFIC QUESTIONS.

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ADMISSION TO PRACTICE BEFORE THE SECOND CIRCUIT

Counsel of record and counsel who will argue the appeal must be admitted to the bar of this Court. For forms and information on admission to practice before this Court, contact the Court's Admissions Clerk at (212) 857-8603.

FILING PRE-ARGUMENT FORMS (Forms C or C-A, and D).

Form C or C-A. Within 10 days after filing your Notice of Appeal, or your Petition for Review or Application for Enforcement, file an original and one copy of Form C (for an appeal from the district court or the Tax Court) or Form C-A (for an appeal from an agency) with the Clerk of the Court of Appeals and serve it on your adversary. The form cannot be mailed to the Court on the 10th day. It must be received in the Court of Appeals by the 10th day (See F.R.A.P. 26(a)). It is strongly recommended that you serve and file Form C or C-A at the same time you file your Notice of Appeal. These instructions also apply to cross-appeals.



The requirement for filing the pre-argument statements (forms C or C-A and D) is waived in pro se cases. For the purpose of Court of Appeals procedures, pro se's are those parties who are proceeding without benefit of an attorney. An attorney or law school graduate (including a disbarred or suspended attorney) who is proceeding on his or her own behalf is not considered pro se for these purposes and must fully comply with the rules.

Every question on Forms C and C-A should be answered, particularly where a narrative is requested. The name(s) of the appellant(s) and the complete name, address, and phone number of attorneys for each party must be provided. You should append to Form C as many additional pages as are necessary to fully complete the information requested.

Form D. (Appeals from the district court only.) Within 10 days after filing your Notice of Appeal in the district court, file one copy of Form D (transcript information) with the Clerk of the Court of Appeals, furnish two copies to the court reporter, and send one copy to counsel for the appellee(s).

Arrange for the transcription of the stenographic record of the trial at the earliest possible moment, and clearly indicate on Form D what portions of the trial record are being ordered. In the rare circumstances in which transcripts are not being ordered or are not required, ***counsel must nonetheless file Form D and note thereon the status of transcripts and reasons, if any, for not ordering transcripts.***

PROVIDING COPIES OF JUDGMENTS, ORDERS, AND/OR DECISIONS

At the time you file Form C or C-A, you must provide the Court of Appeals with:

- A copy of each judgment, order, and/or decision of the district court, or agency from which you seek review.

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appeal. If your in forma pauperis status has been revoked by the District Court, you must file a motion to proceed in forma pauperis with this Court. This Court will send a letter informing you of the need to either pay at the fee or file the motion. If you paid the fee below, but cannot afford to pay at the Court of Appeals, you may file a motion to appeal in forma pauperis first in the District Court: if that request is denied, you may file a request in this Court.

Q. Do I have to fill out forms C and D?

A. Pro Se appellants do not need to fill out form C (Pre-argument Statement) or form D (Transition Information).

Q. Will this Court have a record of the proceedings in the District Court?

A. The District Court will compile and forward the Record on Appeal to this Court. However, if there were proceedings before the District Court (trial or hearings) and the appellant wants to challenge a "finding or conclusion" made therein, he or she must "include in the record a transcript of all evidence relevant to such finding or conclusion." Fed. R. App. P. 10(b)(2). Appellants can order transcripts from the court reporter who recorded the relevant proceeding.

Q. What happens next? How long does the process take?

A. It takes approximately two weeks for a notice of appeal from the District Court to be forwarded to this Court. After that point, a scheduling order is issued, unless motions are filed. If motions are filed, such as for in forma pauperis status, appointment of counsel or transcripts, etc., the operation of scheduling order will be suspended pending determination of the motion. Before granting such motions, the Court must examine the record to determine that there are non-frivolous issues in the appeal. If no non-frivolous issues are found, the appeal may be dismissed.

Once the motion is decided, a new scheduling order will be issued, assuming the appeal was not dismissed. The scheduling order will give a date by which each party's appellate brief must be submitted. (See below for answers to questions about briefs). After the parties submit briefs, oral argument will be held in front of a panel of three judges. At argument, the litigant may explain orally why he or she feels the disposition in the District Court should be reversed (or affirmed).